OPINION NO. 1108

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

TAX DIVISION

JOHN A. ALEXANDER, JR.
Petitioner

v.

DISTRICT OF COLUMBIA
Respondent

Docket No. 2187

ISSUE

In its factual and legal posture, this case tenders for resolution the question whether the petitioner, during the years 1967 through 1971, was domiciled in the District of Columbia within the meaning of D. C. Code §47-1551c(s) and, therefore, taxable pursuant to D. C. Code §47-1567(b). Petitioner asserts that he was domiciled in Japan during those years. Accordingly, on 2 May 1972, he paid, under protest, base taxes of $2,844.06 for the tax years 1967 through 1971 (all interest and penalties having been waived by the D. C. Department of Finance and Revenue). Although the petitioner was subsequently refunded 1966 taxes in the amount of $277.46,[1] a claim for refund of the remaining amount was denied on 23 August 1972. Consequently, petitioner is now before the Court seeking a refund from the District of Columbia Government in the amount of $2,566.60.

There is no dispute that the petitioner was domiciled in the District of Columbia from birth to the time he journeyed to Japan in July, 1966. Moreover, it is obvious that he resided in Japan during the years 1966-71. The question then becomes, however, whether the petitioner evidenced the necessary requisites to effectuate

[1]Presumably, this refund was granted on the theory that taxes for that year are beyond the five year statute of limitations specified in D. C. Code §47-1586i(a)(3).

a change of domicile from the District of Columbia to Japan. That is to say, did the petitioner intend to make his "home" in Japan?

On the basis of the evidence, the Court concludes that the petitioner was domiciled in the District of Columbia during the years 1967-71, and consequently, petitioner's claim for a refund must be dismissed.

Contentions

Petitioner contends that upon his departure from the District of Columbia in July, 1966, and subsequent arrival in Japan, which was his chosen employment situs, he had abandoned his District of Columbia domicile and acquired a new one in Japan. He maintains that he intended to remain in Japan indefinitely and that he had no intention of returning to the United States at any particular time. Moreover, he asserts that he would not live with his parents in the District of Columbia if he ever returned to the Washington Metropolitan Area because his relationship with his father was strained. In the alternative, the petitioner argues that if he was not domiciled in Japan, the Court may nevertheless find that he had abandoned his District of Columbia domicile and, therefore, was not taxable by the District Government.

The respondent, on the other hand, maintains that petitioner never abandoned his District of Columbia domicile and, therefore, was required to pay income taxes for the years in question. Moreover, it is respondent's contention that a change of residence for purposes of employment does not in and of itself result in a change of domicile.

Evidentiary Hearing

Petitioner, John A. Alexander, Jr., was born and educated in the District of Columbia and continuously resided with his parents here except for a period of time when fulfilling his

military obligation and pursuing certain educational objectives at the University of Washington in Seattle. Upon completion of his education, petitioner, in 1957, obtained civilian employment with the U. S. Naval Research Laboratory located in Washington, D. C., and remained there until 12 May 1966 when he entered into a contract for employment at the U. S. Naval Shore Electronics Engineering Activity in Yokosuka, Japan. The period of this agreement was for thirty-six months with an option to renew. At the expiration of the initial period, petitioner exercised his option and renewed his contract for an additional twenty-four months.

On 20 May 1966, petitioner applied for a passport and indicated on the application that the purpose of the trip was "U. S. Government Civil Service Employment Transfer." He designated three years as the proposed length of stay. On 12 June 1966, the petitioner left the District of Columbia to attend the Department of Navy School in St. Mary's County, Maryland. At that time, he stored some personal property in a garage on land he owned in Medley's Neck, Maryland, and instructed his parents to dispose of any remaining worthless property. Upon completion of his schooling, the petitioner departed and arrived in Japan in July, 1966.

In September, 1966, petitioner leased a private residence where he remained through August, 1971, with the exception of a brief return to the District of Columbia to attend his father's funeral in December, 1970.

In April, 1967, while in Japan, petitioner filed a D. C. Form D-40B requesting a return of certain taxes on the ground that his present domicile was Japan. The District of Columbia Finance Office agreed and refunded his taxes. Petitioner testified that in

reliance upon that ruling, which the D. C. Government now asserts was erroneously made, he did not again file D. C. income taxes until March, 1972, for the period September, 1971, through December, 1971.

In addition, petitioner testified that when he filed his 1970 Federal income tax return, in April, 1971, he knew that his present job would be transferred to Hawaii and that assignment there would have entailed work in Vietnam, which he definitely did not desire. Accordingly, he listed his prior address of 1419 Franklin Street, N. E., on his tax return. Since his address for the following year was uncertain, he felt that if the tax forms and instructions were mailed to his mother's address, she would know where to forward them to him.

On 3 May 1971, petitioner applied to the Department of State for a new passport as his present one was about to expire. On this application, he listed his permanent residence as "1419 Franklin Street, N. E., Washington, D. C. " Moreover, he indicated on the same application, under "Proposed Travel Plans," that he intended to return to the United States within six months to reside. Petitioner testified that the sole reason for listing his residence at 1419 Franklin Street, N. E., was because "he had to put some address in the United States."

On 10 June 1971, at about the time his renewed employment obligation had terminated, petitioner requested and received a reassignment from his present employer to his former employer, the Naval Research Laboratory in Washington, D. C.. Subsequently, according to petitioner, he took leave without pay for his last three months in Japan specifically for the purpose of seeking employment in the Pacific area. Failing to do so, in September, 1971, he took advantage of his re-employment opportunity

with his former employer and took up residence with his mother at 1419 Franklin Street, N. E., only, in his words, because his father had since passed away.

Aside from his employment, petitioner's activities in Japan were extremely limited. He testified that he had calling cards printed listing his residence at his address in Japan. There is, however, no evidence that he ever applied for permanent residence status in Japan. Moreover, petitioner admitted at trial that he never applied for Japanese citizenship, that he never voted in a Japanese election, that he never paid Japanese income tax, that he was never employed by a Japanese enterprise, that he never sought private employment while in Japan - other than with the United States Navy, that he never had relatives in Japan and that he never joined any social or civic associations while present in Japan. Furthermore, the petitioner has made no affirmative showing whatsoever that he had ever previously visited Japan or was familiar with any aspect of Japanese culture, mores or societal relationships.

On the other hand, during his residence in Japan, petitioner used his mother's residence for purposes of correspondence and for two active bank accounts which he maintained in the District of Columbia from 1967 to 1971 - Perpetual Banking Association and the Washington National Bank. This, in fact, was the same address that petitioner had used for voter registration purposes in 1964 and 1972. In addition, the evidence reveals that during the years in question, petitioner was a stockholder in the Potomac Electric Power Company of Washington, D. C.

OPINION

There is a threshold question, resolution of which is not long in doubt. It may be suggested that since this case calls for a determination of whether the petitioner was domiciled in Japan

or the District of Columbia Japanese principles of domicile should be applied. This Court does not agree. But even if this suggestion were valid, the Court, under the evidence, must nevertheless apply the law of the forum. In any case where the laws of a foreign country are applicable, these laws must be pleaded and proven by the party who relies upon them.[2] In the instant case, however, no evidence has been received with reference to the law of Japan other than an un-official document, submitted by petitioner, which purports to interpret the Japanese definition of domicile. This is not sufficient proof of Japanese law. Even if Japanese law were applicable, this Court would have to presume that the concept of domicile, having universal recognition as it does, would be applied in Japan under principles somewhat similar to ours, though its jurisprudence may be different. Moreover, it is not clear on the record that this un-official document was introduced to prove Japanese law. If this is true, it then becomes apparent that the petitioner, by failing to prove the foreign law, has acquiesced in having his controversy determined by the law of the forum. See, Leary v. Gledhill, 8 N. J. 260, 84 A.2d 725(1951).

A more substantial reason for applying the law of the forum is buoyed to the primary issue in this case. In the Court's view, since a question has been raised concerning whether a person was domiciled in the forum, the Court is free to apply the law of the forum.[3]

Domicile is an elusive concept that has been interpreted in various ways by learned jurists and legal scholars alike. Mr. Justice Holmes pithily described domicile as "one technically preeminent headquarters, which as a result either of fact or of

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[2]See Super. Ct. Civil Rule 44.1.

[3]G. W. Stumberg, Principles of Conflict of Laws, 2nd ed., p. 53(1951).

fiction, every person is compelled to have in order that by aid of it certain rights and duties . . . may be determined."[4] Domicile has also been defined as that place where a person has a "true, fixed, permanent home, and principal establishment, and to which, whenever he is absent, he has the intention of returning."[5] The Restatement says that domicile is the place where a man has his home.[6] Whatever the various and sundry approaches to defining domicile may be, however, courts and legal scholars are universally in agreement that a person's domicile is the place where he lives and has a home.[7]

Emerging from the numerous decisions on the subject of domicile is the well-settled rule that "every person must at all times possess a domicile . . . no person can at the same time have more than one operative domicile."[8] Since the law of a person's domicile determines many of his important interests, it is essential that everyone have a domicile. The justification for this concept is patently obvious. Without a nexus to associate a person with a certain legal system, the basis for determining succession of property, income taxation and the validity of rights and obligation which arise as a result of this legal association would at most be arbitrary and invidious.

Although everyone agrees that domicile means home, the difficulty arises in determining where one's home is. Perhaps at one time, domicile meant residing at a place permanently. Presence

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[4]Bergner and Engel Brewing Co. v. Dreyfus, 172 Mass. 154 157, 51 N.E. 531(1898). See also, Williamson v. Osenton, 232 U.S. 619, 34 S.Ct. 442, 58 L.Ed. 758(1913).

[5]Story, Conflict of Laws, sec. 41.

[6]Restatement Second, Conflict of Laws §11, comment a.

[7]Note, Self-Serving Declarations and Acts In Determination of Domicile, 34 Geo. L. J. 220(1946).

[8]R. Graveson, The Conflict of Laws (5th ed. 1965).

at a place for a temporary purpose would not suffice to effectuate a change of domicile. However, no sooner than this guideline of "permanence" was established, it was modified by the concept of residence at a place plus the intent to reside there permanently or for an indefinite period of time. Or, stated in the negative, the absence of any present intent to live elsewhere.[9] In many instances, these guidelines were cast as per se rules to be applied, without exception, to determine one's domicile. Today, however, the notion of definiteness or indefiniteness of stay, as per se rules, has been rejected. The point to be made is that while these guidelines are significant, they are not absolute in character and thus a determination of domicile cannot always be made solely upon their application.

Although residence at a given place may be considered evidence of domicile, it is seldom, without more, a justification for a finding of domicile.[10] Where residence is established at a particular place, intent then becomes the significant problem. Residence is not in dispute in the present case. Hence, the question is whether the petitioner manifested the requisite intent to establish a home in Japan. Since petitioner alleges that he abandoned his domicile in the District of Columbia and established a new one in Japan, he has the burden of establishing that he intended and, in fact, did change his domicile.

It has often been stated that a domicile once acquired will continue until it is superceded by the acquisition of a new domicile and that to effectuate a change of domicile there

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[9] Gilbert v. David, 235 U.S. 561, 34 S.Ct. 164(1914); Williamson v. Osenton, 232 U.S. 619, 33 S.Ct. 442(1913).

[10] Beale, Proof of Domicil, 74 U. of Pa. L. Rev. 562(1926). See also, District of Columbia v. Murphy, 314 U.S. 440, 86 L. Ed. 328(1941).

must be actual residence at a place plus the requisite intent.[11] The question then becomes - what is the requisite intent?

The intent required to effectuate a change of domicile must be an actual intent to acquire a new domicile and not merely a future or conditional intent premised upon the happening of some uncertain or possibly fortuitous event. It must be a present intent to remain in the new place for an indefinite period of time, and when absent from that place there is an intent to return.

Despite self-serving declarations, the intent must be objectively manifested and is to be measured by a person's acts regardless of what his actual feelings or subjective intent purport to reflect:

> "A strong subjective intent combined with an occasional residence is insufficient in itself to make a domicil . . . where the new residence is in a foreign country, the Courts are more reluctant to find a change of domicil, but they do so if the mere claim of domicil is practically the only remaining connection."[12]

Thus, to resolve the instant problem, it becomes imperative to examine objectively the acts of petitioner which attempt to connote his intent to establish a change of domicile to Japan. This resolution, however, can only be accomplished by an analysis of the relevant established domiciliary principles which have been elucidated in a number of domiciliary cases in this, and other, jurisdictions. In attempting to reach this resolution, the Court must address itself to the question: Did petitioner intend to make his home in Japan? For once this determination is made, domicile will follow as a matter of law.[13]

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[11]Goodrich, Conflict of Laws, 2nd ed., §18(1938).

[12]Comments, "'Intent' In Domicil," 37 Yale L. J. 1127(1928).

[13]Note, Self-Serving Declarations and Acts In Determination of Domicile, 34 Geo. L. J. 223(1946).

For a variety of reasons, such as environmental changes for health purposes, or a desire to attend a particular educational institution, persons are compelled or may relocate. Similarly, the mere fact that a person is compelled to relocate, either by economic reasons or by law, should not preclude his becoming domiciled in the new location if the requisite intent is present to indicate unequivocably abandonment of the former domicile and acquisition of a new one. Even though present for a fixed period of time, a person may acquire a domicile.

This principle was heightened by a recent decision[14] wherein the Court, in drawing analogies between the peculiar situation of prisoners and those factual situations involving migratory teachers and soldiers,[15] held that a prisoner could establish a domicile in the state in which he was incarcerated if he manifests the requisite intent to abandon his former domicile and acquire a new one. The Court concluded that there was no justification for the application of a "per se rule" that would prevent the acquisition of a domicile for any prisoner. For in doing so would create an irrebuttable presumption of retention of the former domicile and preclude the acquisition of a new one. It would appear, therefore, that the fact of petitioner's residence in Japan pursuant to an employment contract for a definite period of time should not, under all circumstances, preclude him from establishing a domicile there. It should be observed, however, that this fact, standing alone, is prima facie that Japan is not his domicile. And it is incumbent upon petitioner to overcome this prima facie showing by adducing evidence to the contrary.

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[14]See, Stifel II v. Hopkins, Esquire, et. al., No. 72-1424 (U.S.C.A., 6th Cir. 1973).

[15]See, Ellis v. Southeast Construction Co., 260 F.2d 280 (8th Cir. 1958), and Ferrara v. Ibach, 285 F. Supp. 1017(D.S.C. 1968).

The Court must then return to its original query in attempting to resolve this problem, that is to say, did petitioner intend to make his home in Japan? As previously stated, the determination of intent to acquire a domicile must be objectively examined in light of surrounding factual circumstances, and, as recognized by the Supreme Court, this is a "difficult question of fact to be settled only by a review of the many relevant (and frequently conflicting) indicia of where a man's home is and according to the established modes of proof." District of Columbia v. Murphy, 314 U.S. 441, 86 L.Ed. 329(1941). Consequently, presumptions have been established by the Courts in an effort to ascertain the true intent of an individual.[16] In this regard, a fair analysis of the instant case requires consideration of at least two presumptions which from time to time have been recognized and applied in domicile cases: (1) presumption of continuity of domicile until evidence is established to the contrary, See, Sweeney v. District of Columbia, 72 App.D.C. 30, 113 F.2d 25(1940) and (2) presumption that the place where a man lives is considered to be his domicile until facts adduced establish the contrary, See, District of Columbia v. Murphy, 314 U.S. 440, 86 L.Ed. 329(1941).

In Sweeney, notably the first in a series of cases in this jurisdiction involving persons who had ventured to the District of Columbia in pursuit of employment with the Civil Service, the Court recognized the problem whether a citizen of a state, by accepting Federal employment in the District of Columbia of indefinite or relatively permanent duration, must surrender his prior domicile. In holding, the Court stressed that unless a person gave clear evidence of his intention to forego his state allegiance, he may retain his domicile in the state from

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[16]Note, Self-Serving Declarations and Acts In Determination of Domicile, 34 Geo. L.J. 222(1946).

whence he came. The underlying basis of Sweeney apparently stemmed from the Court's rationale that residence in the District of Columbia was reasonably incident to the discharge of governmental performance here. Under these circumstances, Sweeney applied the traditional presumption of continuity of domicile which would require strong evidence to rebut.

The rationale and authority of Sweeney was applied to the subsequent companion cases of District of Columbia v. DeHart, 73 App.D.C. 345, 119 F.2d 449(1941) and District of Columbia v. Murphy, 73 App.D.C. 347, 119 F.2d 451(1941). However, in reversing the holdings of Dehart and Murphy, the Supreme Court, in District of Columbia v. Murphy, 314 U.S. 441, 86 L.Ed. 329(1941), rejected the presumption of continuity of domicile as propounded by Sweeney, and established "broad rules" to assist in determining the domiciliary status of persons who had ventured to the District of Columbia for the purpose of engaging in governmental service of relatively indefinite tenure. On the one hand, the Court held that a person, simply by coming to live in the District of Columbia for an indefinite period of time pursuant to employment in the Government service, would not acquire a domicile. However, on the other hand, the second prong of the "broad rules" of Murphy established the proposition that unless a person, residing in the District of Columbia, had a fixed and definite intent to return where he was formerly domiciled, he would be presumed to be domiciled here. The Court noted that a mere "floating intention" to return to one's domicile would not suffice to retain the former domicile for the intent to return must be definite even though the date set for returning need not be.

In reliance upon the proposition that until facts adduced established the contrary, the place where a person lives is properly taken to be his domicile,[17] the Court thus took the position that the taxing authority was warranted in considering any person residing in the District of Columbia on tax day as prima facie taxable. In the Court's view, it was not an unreasonable burden to require a person to prove domicile elsewhere if he sought to escape being taxed in the District of Columbia for he alone was in possession of all the facts and could best describe his own attitudes with reference to the acquisition or abandonment of a domicile.

The Supreme Court's view in Murphy and the U. S. Court of Appeal's view in Sweeney differed only with respect to allocation of the burden of proof with Murphy placing the burden upon the individual residing in D. C. to establish domicile elsewhere and Sweeney furthering the proposition of continuity of domicile which would require strong evidence to overcome the presumption against a change. (See, Beedy v. District of Columbia, 75 U.S.App.D.C. 289, 126 F.2d 647(1942). Although Beedy differed from the previous cases in that the petitioner therein was not employed in the Federal service at the time that his domiciliary status was in question, the Court recognized this distinction as one possibly involving a different problem. However, it concluded that in either situation, the determination to be made is: Where is a man's home? It is apparent, as evidenced by the cases decided subsequent to Murphy,[18] that the presumption of continuity of domicile, as expressed in Sweeney, in effect "gave way" to the counter presumption of domicile in the District of Columbia which would require the person affected to rebut

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[17]See, Ennis v. Smith, 14 How. (US) 400, 423, 14 L.Ed. 472, 482, and Anderson v. Watt, 138 U.S. 694, 706, 34 L.Ed. 1078, 11 S.Ct. 449.

[18]Pace v. District of Columbia, 77 U.S.App.D.C. 332, 135 F.2d 249(1943); Butler v. District of Columbia, 80 U.S.App.D.C. 145, 161 F.2d 649(1947); Arbaugh v. District of Columbia, 85 U.S.App.D.C. 97, 176 F.2d 28(1949).

and prove by adducing and establishing evidence to the contrary.

In analyzing the aforementioned cases and attempting to apply their relevant legal principles to the present case, it is apparent that the guidelines and presumptions employed in a determination of domicile were not designed to create a system of hard and fast rules to be applied regardless of context. To the contrary, the principles which have evolved from the cases span numerous factual situations and are but aids to assist the Court in making a determination as to a person's true home. The fact that a guideline or presumption is rejected in one case does not preclude its acceptance and application in another. Realizing that the mobility of persons is greatly increasing, the trend is toward greater refinement and more selective utilization of domiciliary principles.

The Murphy presumption that where a man lives is considered to be his domicile is either a weak or strong presumption dependent on other circumstances in the case. It is indeed a strong and sound presumption when the residence is for an indefinite period of time in a place where the customs, laws and mores are similar to those of the former place of residence. Hence, indefinite residence in such a place and the absence of any fixed and definite intent to return to one's former domicile is generally determinative.

In the instant case, however, the Murphy presumption, if applicable at all, ceases to be a reasonable inference once the fact of limited residence becomes apparent. Moreover, since it is evident that the petitioner, pursuant to an employment contract of definite duration [emphasis added], ventured to a foreign country of which he had little or no prior knowledge of its language, customs, mores

and societal relationships, it would be most inappropriate for the petitioner to rely on a presumption arising from residence as a justification for a finding of domicile in Japan.

The Court is of the opinion that the presumption of continuity of domicile, as expressed in Sweeney, supra, is more applicable to the case at bar. This is not inconsistent with the traditional view that a domicile once established continues until it is superceded by a new domicile.[19] Though application of this presumption does not preclude a finding of domicile in Japan, the petitioner must, nevertheless, rebut the presumption by establishing facts to the contrary. In the Court's view, he has failed to do so.

Although the petitioner testified that he abandoned his District of Columbia domicile and acquired a new one in Japan, his declaration is subject to the infirmities of any other self-serving declarations and as recognized in Murphy, supra, may lack persuasiveness or be contradicted by other declarations and inconsistent acts. Therefore, the petitioner's conduct must be objectively examined in light of his testimony, for the conduct of a person is one of the most important indicia of a person's intent to acquire a domicile in a place.[20] Words are not sufficient. Moreover, the Court must consider all of the evidentiary facts which purport to show the relationship with the petitioner's former home as these facts are also relevant in determining one's domicile.[21]

The record before the Court reflects that the petitioner had minimal contacts while he resided in Japan. However, while residing there, he did remain a property owner in the metropolitan

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[19]Restatement (Second), Conflict of Laws §19.

[20]Beale, Proof of Domicil, 74 U. of Pa. L. Rev. 560(1926).

[21]Note, Self-Serving Declarations and Acts In Determination of Domicile, 34 Geo. L.J. 223(1946). District of Columbia v. Murphy, 314 U.S. 441, 457(1941).

area, retained stock in a local utility company, and maintained two active bank accounts in the District of Columbia. Moreover, the record reveals that the petitioner resided with his mother, the only known relative to the Court, prior to going to Japan, and immediately took up residence with her at the family home upon his return to the District of Columbia. It is also significant to note that while the petitioner was residing in Japan, he used his former Franklin Street address for purposes of correspondence and indicated this address as his "permanent residence" on his 1971 passport application as well as noting on the application that he intended to return to the United States within six months to reside. In the Court's view, it at least appears that petitioner's intent, as evidenced by these notations on his passport application, was consistent with his subsequent conduct.

Although the petitioner rented and lived in a private residence in Japan and had calling cards printed listing his residence at his address in Japan, there is no evidence that indicates that he ever joined any social or civic associations while present in Japan or that he ever sought private employment while in Japan - other than with the United States Navy. In addition, petitioner has made no showing that he ever applied for Japanese citizenship, ever voted in a Japanese election, ever paid Japanese income taxes, or was ever employed by a Japanese enterprise. It is, therefore, difficult for this Court to find that petitioner intended to make his home in Japan.

Aside from petitioner's testimony, all evidentiary facts appear to indicate that at the completion of his stay in Japan, he intended to return to the District of Columbia, a city where he had lived for the majority of his life and the only place that petitioner appears to have any family ties. Having endeavored

to ascertain petitioner's true intent in light of an examination of his entire course of conduct, the Court thus concludes that the petitioner has failed to sustain his burden of proof on the issue of acquisition of a domicile in Japan.[22]

In a nutshell: The present trend is against per se rules in the determination of domicile. Hence, the view that residence plus an intent to remain there indefinitely is determinative of domicile is not an absolute. Other circumstances may be shown indicative that a former residence is the domicile. It is, however, sound to say that residence with an intent to remain there indefinitely does establish a case sufficient to support a finding of domicile unless evidence to the contrary is adduced.

Similarly, the view that residence plus an intent to remain there only for a definite period is not always definitive that no domicile exists at the place of residence. Here again other circumstances may establish the contrary. Nevertheless, residence with an intent to remain there only for a limited time does establish a case against domicile at the place of residence sufficient to support a finding to that effect. In this situation, to prevail, a person, asserting domicile at his place of residence, is required to adduce evidence sufficient to support a finding to the contrary.

In the present case, the petitioner, admittedly domiciled in the District of Columbia beforehand, ostensibly went to Japan for the purpose of term employment. On the surface, therefore, his residence there was for the duration of his employment. On these facts, it is to be presumed that his change of residence for such

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[22]There is no necessity for the Court to consider the legal ramifications of abandonment of a domicile without acquisition of another. See, In Re Dorrance's Estate, 309 Pa. 151, 163A. 303(1932).

a purpose did not, of itself, effectuate a change in his domicile. In a word, no domicile was acquired in Japan and he remained a domiciliary of the District of Columbia. In this Court's opinion, the evidence presented by the petitioner to the contrary neither meets nor overcomes the case against his claim.

Furthermore, in passing, the petitioner's contention that he was a true transient - without any domicile whatsoever - must be viewed in light of the strong policy of the law, if not in fact a rule of law, that a person must always have a domicile. Treating this aspect of the case as a matter of policy, there is, to say the least, still a strong presumption against a roving existence. On the record made, this Court cannot find that the petitioner was was a true transient.

It is therefore on this 25th day of October, 1973, ORDERED that petitioner's claim for refund be dismissed.

JAMES A. WASHINGTON, JR.
JUDGE

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